

REMARKS

Reconsideration is respectfully requested. Claims 1-26 are present in the application. Claims 1, 2, 5, 7, 12 are amended herein.

Claims 1-2, 4, 7-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Shimazaki in view of Ikeshoji. Neither Shimazaki nor Ikeshoji, however, replace photographic background imagery with a pattern adapted to be printed without apparent printer anomalies. Shimazaki does not address the printing of photographic imagery, and accordingly, even though the term "background" is used in the Shimazaki patent, it is not used in the same sense as in the present application, to mean an already existing portion of an image. In Shimazaki a background portion is created but there is no existing background imagery or portion, at the beginning of the process, to be replaced. In Ikeshoji, photographic imagery is processed, but instead of being replaced with a background pattern, the background is treated and reinserted. Accordingly, as neither of these two references disclose a device that, "replace[s] the background portion of [a] photographic image with a background pattern adapted to be printed without creating areas of perceptible unevenness" the combination of these two references cannot be said to disclose such a device.

Moreover, neither Shimazaki nor Ikeshoji disclose a processing unit that replaces photographic background imagery with color having a "color specification" nor an output unit that "recognizes the background portion on basis of said color specification specified" and replaces it with "a pattern adapted to be printed without creating areas of perceptible unevenness..." . In neither Shimazaki nor Ikeshoji is there this division of labor between a processing unit and an output unit, with the processing unit recognizing the background portion of photographic imagery and marking the background region with a specified color, which the output unit then recognizes and replaces with a pattern. Neither Shimazaki nor Ikeshoji remotely hint at this type of communications scheme between processor unit and output unit. Accordingly, this is another reason that it cannot be said that the combination of Shimazaki and Ikeshoji render claim 1 obvious.

Claims 7 is a method claim that corresponds to claim 1. Accordingly, it is patentably distinct from the combination of Shimazaki and Ikeshoji for at least the reasons that claim 1 is patentably distinct over these two references. Indeed, these arguments are even stronger when they are applied to the steps of claim 7, as none of the steps recited are disclosed by either of the cited prior art references applied to this claim.

Claims 2, 4, and 8-10 are patentable at least for the reason that each one depends on a patentable base claim. Also, claim 3,

11 and 14, which stand rejected under 35 U.S.C. §103 as being rendered obvious by Shimazaki, Ikeshoji and Fujima, are also patentable at least for the reason that each one depends on a patentable base claim. Additionally, claims 15 – 26, which stand rejected under 35 U.S.C. §103 as being obvious either in view of Shimazaki, Ikeshoji and Yang, or just Shimazaki and Yang, are patentable for at least the reason that each one depends on a patentable base claim.

Claims 5, 6, 12 and 13 stand rejected under 35 U.S.C. §102(e) as being unpatentable over Shimazaki. With respect to claims 5 and 12, Shimazaki does not disclose means for replacing a background portion of a photographic image with a specified background design. The verb "replace" does not appear in Shimazaki in any form. There is no original imagery to replace in Shimazaki as all of the imagery to be printed is created by the processor. Specifically, elements 36 and 38 are the keyboard (or mouse) and display, respectively. The PTO has provided applicant with no explanation of how these elements constitute "means for replacing" anything at all.

Moreover, Shimazaki does not disclose, in the output unit, a "means for recognizing a background portion by detecting the specified background design... ." Neither the word "recognize" nor the word "detect" appear in the Shimazaki patent in any form. Element 58, the "color correction computing section" corrects all the imagery and draws no distinction between one part of an image

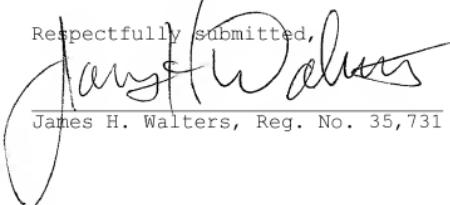
and another. Accordingly, there are no means for recognizing or means for detecting in the Shimazaki patent. Moreover, element 58 corrects data, rather than replacing it.

Claims 6 and 13 are patentable at least for the reason that they depend on a patentable base claim.

In light of the above noted amendments and remarks, this application is believed in condition for allowance and notice thereof is respectfully solicited. The Examiner is asked to contact applicant's attorney at 503-224-0115 if there are any questions.

It is believed that no further fees are due with this filing or that the required fees are being submitted herewith. However, if additional fees are required to keep the application pending, please charge deposit account 503036. If fee refund is owed, please refund to deposit account 503036.

Respectfully submitted,

  
James H. Walters, Reg. No. 35,731

Customer number 802  
patenttm.us  
P.O. Box 82788  
Portland, Oregon 97282-0788 US  
(503) 224-0115  
DOCKET: A-377

Certification of Electronic Transmission

I hereby certify that this correspondence is being electronically transmitted to the Patent and Trademark Office via the EFS system on this January 31, 2007.